

Gary L. Walton, Esq.
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Butte, Montana 59702-4248
(406) 494-1385

GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER BRANDON

2014 NOV 25 PM 3 50

FILED

BY _____
DEPUTY

Attorneys for Plaintiff

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT
GALLATIN COUNTY

ELIZABETH SADAJ,

Plaintiff,

-vs-

FEDERAL INSURANCE COMPANY,
SPANISH PEAKS HOLDINGS, LLC,
and JOHN DOES Nos. 1-5,

Defendants.

CAUSE NO. DV - 14-907 C

COMPLAINT AND DEMAND
FOR JURY TRIAL

COMES NOW the Plaintiff, Elizabeth Sadaj, by and through her attorneys, Gary L. Walton, PLLC, and for her claims against the Defendants alleges as follows:

1. Plaintiff, Elizabeth Sadaj, ["Sadaj"], is a citizen and resident of Gallatin County, Montana.
2. Defendant, Federal Insurance Company, ["FIC"], is an insurance company authorized to do business in Montana. FIC sells insurance in Montana under the authority granted by the State's Insurance Commissioner and subject to her regulatory authority. FIC is subject to the laws of Montana, including the Montana Unfair Trade Practices Act.
3. Spanish Peaks Holdings, LLC, [SPH] was and at all times pertinent to this action a Montana-limited liability company with its principal place of business in Big Sky,

1. COMPLAINT AND DEMAND FOR JURY TRIAL

EXHIBIT

A

Montana. At all times relevant herein, Spanish Peaks acted with the authority and as an agent of FIC.

4. Defendants John Does 1 through 5 are fictitious defendants whose identity is currently unknown and are named pursuant to MCA 25-5-103 (2013).
5. The Court has personal and subject matter jurisdiction of the Defendants.
6. Gallatin County, Montana is proper venue for this action in accordance with MCA § 25-2-122(b).

COUNT I

7. Sadaj realleges paragraphs 1 through 6 of her Complaint as if fully set forth verbatim.
8. Sadaj worked for The Club at Spanish Peaks, LLC from February 2008 until March 2, 2010 when she was wrongfully discharged from her employment.
9. On or about March 1, 2011 Sadaj filed suit against The Club at Spanish Peaks, [Club], for wrongful discharge and other claims.
10. On March 1, 2011 The Club at Spanish Peaks, LLC was insured by Federal Insurance Company ("FIC") against claims arising from the employment relationship. The Club notified FIC of Sadaj's lawsuit. The Club appeared in the lawsuit through counsel selected, approved and retained by FIC.
11. Despite liability being reasonably clear, the Club denied all liability in its answer to the Complaint.
12. Once notified of Sadaj's claim, FIC had an affirmative duty to refrain from:
 - a. misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

- b. refusing to pay claims without conducting a reasonable investigation based upon all available information;
- c. failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- d. neglecting to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- e. failing to promptly settle claims, if liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

13. FIC breached one or more of its statutory duties in the handling, adjustment and settlement of Sadaj's claim. FIC's breach caused Sadaj to suffer actual damages in an amount to be proven at trial.

14. The Defendants actions constitute actual malice, as defined in MCA 27-1-221 and warrant the imposition of punitive or exemplary damages in an amount sufficient, in view of the size and wealth of FIC and the CHUBB Group of Companies, to make an example of their conduct and to deter similar wrongful conduct in the future.

COUNT II

15. Sadaj realleges paragraphs 1 through 14 of her Complaint as if fully set forth verbatim.

16. Shortly after Sadaj filed suit against the Club, it sought protection under the federal bankruptcy statutes from its creditors. Despite the fact that the Club was insured for the claims brought by Sadaj, FIC and SPH refused to agree to lifting the automatic stay with respect to Sadaj's claim. FIC and SPH's refused to the lifting of the automatic stay in order to further delay Sadaj's rightful recovery under the insurance policy.

3. COMPLAINT AND DEMAND FOR JURY TRIAL

17. FIC is vicariously liable for the acts and omissions of SPH with respect to Sadaj's claim.

18. The Defendants had a common law duty to act in good faith in the investigation, adjustment, and settlement of Sadaj's claim. The Defendants breached their duty of good faith and fair dealing by (1) making representations concerning its legal duties that are contrary to Montana law; (2) failing to act reasonably promptly upon communications with respect to claims arising under the policy; (3) neglecting to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear; (4) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; and (5) improperly attempting to leverage its own interests over those of the claimant when liability for the claim is reasonably clear.

19. Sadaj suffered actual damages due to the Defendants' breach of the common law duty of good faith and fair dealing.

20. The Defendants actions constitute actual malice, as defined in MCA 27-1-221 and warrant the imposition of punitive or exemplary damages in an amount sufficient, in view of the size and wealth of FIC and the CHUBB Group of Companies, to make an example of their conduct and to deter similar wrongful conduct in the future.

WHEREFORE, Sadaj prays for relief as follows:

1. For all special, general, and compensatory damages sustained by her;
 2. For exemplary damages in an amount sufficient to deter the Defendants from engaging in the same or similar conduct in the future;
 3. For the costs of this action; and
 4. For any and all such other relief which the Court deems equitable and just.
-

4. COMPLAINT AND DEMAND FOR JURY TRIAL

Dated: November 24, 2014.

GARY L. WALTON, PLLC

By 

Attorneys for Plaintiff

P.O. Box 4248

Butte, Montana 59702-4248

DEMAND FOR JURY TRIAL

The Plaintiff hereby demands a trial by jury of all issues so triable in this action.

Dated: November 24, 2014.

GARY L. WALTON, PLLC

By 

Attorneys for Plaintiff

P.O. Box 4248

Butte, Montana 59702-4248

Gary L. Walton, Esq.
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Attorneys for Plaintiff

GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER BRANDON

2017 NOV 20 AM 10:48

FILED

BY AP DEPUTY

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT
GALLATIN COUNTY

ELIZABETH SADAJ,

Plaintiff,

-vs-

FEDERAL INSURANCE COMPANY,
SPANISH PEAKS HOLDINGS, LLC,
and JOHN DOES Nos. 1-5,

Defendants.

CAUSE NO. DV-14-907C

**VOLUNTARY DISMISSAL OF
SPANISH PEAKS HOLDINGS, LLC
WITHOUT PREJUDICE PURSUANT
TO RULE 41(a), M.R.CIV.P.**

COMES NOW the Plaintiff, Elizabeth Sadaj, by and through her attorneys, Gary L. Walton, PLLC, and pursuant to Rule 41(a), M.R.Civ.P., voluntarily dismisses Defendant, Spanish Peaks Holdings, LLC without prejudice in this action.

Dated: November 17, 2017.

GARY L. WALTON, PLLC

By [Signature]
Attorneys for Plaintiff

P.O. Box 4248

Butte, Montana 59702-4248

1. **VOLUNTARY DISMISSAL OF SPANISH PEAKS HOLDINGS, LLC
WITHOUT PREJUDICE PURSUANT TO RULE 41(a), M.R.CIV.P.**

EXHIBIT

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Filed Nov. 20, 2017

Jennifer Brandon, Clerk

BY EP
Deputy

**MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT
GALLATIN COUNTY**

Elizabeth Sadaj,

Plaintiff(s),

-VS-

Cause No: DV-16-2014-0000907-BF

Federal Insurance Company,

Spanish Peaks Holdings, LLC,

Defendant(s).

*****NOTICE OF DISMISSAL*****

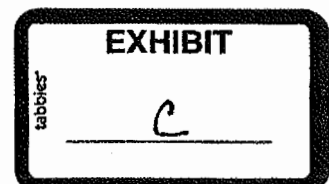
Pursuant to the Plaintiff's Voluntary Dismissal of Spanish Peaks Holdings, LLC without Prejudice Pursuant to Rule 41(a), M.R.CIV.P. filed on November 20, 2017, Spanish Peaks Holdings, LLC is hereby DISMISSED pursuant to Rule 41(a)(1) of the Montana Rules of Civil Procedure.

Dated this November 20, 2017,

Jennifer Brandon
Clerk of District Court

By EWK Pohnatz
Deputy

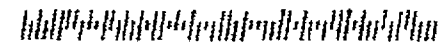
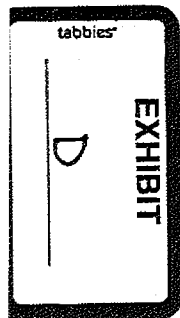
cc: Gary L. Walton - emailed 11-22-17





Commissioner of Securities and Insurance
Office of State Auditor
840 Helena Avenue
Helena, MT 59601

Federal Insurance Co
CT Corporation System
3011 American Way
Missoula, MT 59808





**Service of Process
Transmittal**

12/04/2017

CT Log Number 532409572

TO: Charles Short
Federal Insurance Company
2603 Camino Ramon Ste 300
San Ramon, CA 94583-9137

RE: Process Served In Montana

FOR: Federal Insurance Company (Domestic State: IN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Elizabeth Sadaj, Pltf. vs. Federal Insurance Company, et al., Dfts.

DOCUMENT(S) SERVED: Letter(s), Summons, Complaint, First Set of Combined Requests

COURT/AGENCY: Montana Eighteenth Judicial District Court - Gallatin County, MT
Case # DV14907C

NATURE OF ACTION: Insurance Litigation

ON WHOM PROCESS WAS SERVED: C T Corporation System, Missoula, MT

DATE AND HOUR OF SERVICE: By Certified Mail on 12/04/2017 postmarked: "Not Post Marked"

JURISDICTION SERVED : Montana

APPEARANCE OR ANSWER DUE: Within 21 days after service, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Gary L. Walton
Gary L. Walton, PLLC
8 West Park Street, Suite 401
Butte, MT 59702-4248
406-494-1385

ACTION ITEMS: CT has retained the current log, Retain Date: 12/05/2017, Expected Purge Date: 12/10/2017

Image SOP

Email Notification, CT Corp ct_corp@chubb.com

Email Notification, Joyce E. Segelken jsegelken@chubb.com

Email Notification, Charles Short cshort@chubb.com

SIGNED: C T Corporation System

ADDRESS: 3011 American Way
Missoula, MT 59808-1921

TELEPHONE: 314-863-5545